

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

SUZANNE MCCORMICK,

Plaintiff,

-against-

THE STATE OF NEW YORK;  
THE OFFICE OF COURT  
ADMINISTRATION OF THE UNIFIED  
COURT SYSTEM; THE APPELLATE  
DIVISION, FIRST DEPARTMENT  
DEPARTMENTAL DISCIPLINARY  
COMMITTEE; WINTHROP RUTHERFORD,  
JR; DAVID G. KEYKO and JOHN and JANE  
DOES, 1-30,

Defendants.

Index No. 08cv4438 (SAS)

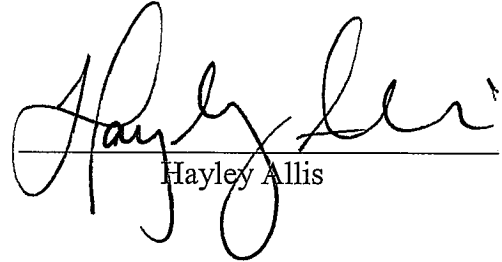
**AFFIDAVIT OF SERVICE**

STATE OF NEW YORK     )  
                                  ) ss.:  
COUNTY OF NEW YORK    )

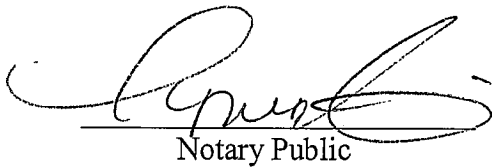
Hayley Allis, being duly sworn deposes and says, I am over eighteen years of age, not a party to this action and reside in the County of New York, State of New York.

On September 5, 2008, I served a true copy of Letter to Honorable Shira A. Scheindlin, dated September 5, 2008, upon the party herein by enclosing true copy thereof in sealed properly addressed postage paid first class mail envelope deposited into the exclusive care and custody of the United States Postal Service within the State of New York addressed as follows:

Ms. Suzanne McCormick  
P.O. Box 102  
Hastings on Hudson, New York 10706

  
Hayley Allis

Sworn to before me this  
5th day of September, 2008

  
Notary Public

**TYNEKA ROBINSON**  
**Notary Public, State of New York**  
**No. 01RO6141716**  
**Qualified in New York County**  
**Commission Expires Feb. 27, 2010**



Pillsbury Winthrop Shaw Pittman LLP  
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David Keyko  
Partner  
tel 212.858.1604  
david.keyko@pillsburylaw.com

Via Hand

September 5, 2008

Honorable Shira A. Scheindlin  
United States District Court  
500 Pearl Street  
New York, NY 10007

Re: Suzanne McCormick v. The State of New York, 08CV4438(SAS)

Dear Judge Scheindlin:

I am a named defendant in the action captioned *Suzanne McCormick v. The State of New York*. I am writing to you to follow up on my letter to the Court of August 15, 2008 (the "Letter") respectfully requesting that you correct an inaccuracy in the recent combined decision, dated August 8, 2008, dismissing various cases (the "Decision"), including the one brought by Suzanne McCormick to which I am named as a defendant. A copy of the Letter is attached for the convenience of the Court.

I, like most lawyers, take my reputation very seriously. I note that the Decision has been published. The fact that Mrs. McCormick complained about some unspecified, purported conduct of mine, not as her counsel, but as opposing counsel, I believe will be viewed by those who read the Decision as significant. I ask for the Court's guidance as to whether the Court would like a formal motion to amend the decision to correct the error I detailed in the Letter.

Thank you for your consideration of my request.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "David G. Keyko".

David G. Keyko

cc. Mrs. Suzanne McCormick



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Via Hand

August 15, 2008

Honorable Shira A. Scheindlin  
United States District Court  
500 Pearl Street  
New York, NY 10007

Re: Suzanne McCormick v. The State of New York, 08CV4438(SAS)

Dear Judge Scheindlin:

I am a named defendant in the action captioned *Suzanne McCormick v. The State of New York*. I have never been served with the summons or complaint and therefore have not participated in any proceedings concerning the case. I write to respectfully request that you correct an inaccuracy in the recent combined decision, dated August 8, 2008, dismissing various cases including the one brought by Suzanne McCormick to which I am named as a defendant.

The opinion incorrectly states that Mrs. McCormick hired me to represent her. *See Op.* at 19. As the Court noted in its opinion, the complaint is vague and so it is difficult to figure out what wrong she has alleged I have committed. No where, however, in the complaint does Mrs. McCormick assert that she retained me to represent her. To the contrary, I and my firm were retained by Bankers Trust Company, now Deutsche Bank, to defend it against claims brought by Mrs. McCormick in proceedings relating to her late husband's estate. Mrs. McCormick and the bank were among five executors of that estate. Neither my firm nor I represented the bank in connection with the proceedings which form the basis for Mrs. McCormick's claims.

I note that my only knowledge about Mrs. McCormick having filed a disciplinary complaint against me is from reading the allegation in her complaint that state that she had done so. Assuming that she did file such a complaint, the Departmental Disciplinary Committee must have sua sponte determined not to pursue

Honorable Shira A. Scheindlin  
August 15, 2008  
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the matter. I am aware of no legitimate basis upon which she could have filed a complaint against me.

If I can be of any further assistance to the Court, I hope you will not hesitate to let me know.

Respectfully submitted,

  
David Keyko